

Message Text

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ACTION ARA-10

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FM AMEMBASSY BOGOTA

TO SECSTATE WASHDC 9978

INFO AMCONSUL CALI

AMCONSUL MEDELLIN

C O N F I D E N T I A L BOGOTA 7163

E.O. 11652: GDS

TAGS: EFIN CO

SUBJECT: COLOMBIAN COURT JURISDICTION OVER FOREIGN BANK LOANS

1. FINMIN BOTERO HAS RECENTLY CONFIRMED TO THE AMB REPORTS FROM BANK SOURCES TO THE EFFECT THAT THE GOC IS CONSIDERING ENACTING AN EXECUTIVE REOLUTION WHICH WOULD STIPULATE THAT DISPUTES ARISING OUT OF FOREIGN COMMERCIAL BANK LOANS TO THE GOC AND ITS INSTITUTIONS WOULD BE SUBJECT TO THE JURISDICTION OF COLOMBIAN COURTS. A CLAUSE TO THIS EFFECT WOULD BE INCLUDED IN THE LOAN PAPERS. AT THE PRESENT TIME MOST COMMERCIAL BANK LOANS TO THE GOC EITHER A) REQUIRE THAT DISPUTES BE SETTLED IN THE COURTS OF THE LENDER'S OWN COUNTRY OR B) ARE SILENT ON THE POINT.

2. THERE ARE PRECEDENTS TO THE EVOLVING GOC POLICY ON THIS SUBJECT. WE UNDERSTAND THAT CHASE HAS ACCEPTED GOC COURT JURISDICTION FOR THE PAST TWO OR THREE YEARS AND THAT THE DOCUMENTS FOR A RECENT LOAN SYNDICATED BY IRVING TRUST WERE NON-COMMITTAL.

3. SEVERAL BANKING SOURCES ARE OF THE OPINION THAT THE
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RESOLUTION WOULD HAVE A HIGHLY NEGATIVE IMPACT ON ANY

MAJOR BORROWING EFFORT BY THE GOVERNMENT. WHILE THIS MAY BE TRUE, WE SUSPECT THAT THE GOVERNMENT'S ABILITY TO BORROW WILL BE BASED ON A NUMBER OF FACTORS, NOT THE LEAST OF WHICH WILL BE BANK EFFORTS TO LEND DURING PERIODS OF EASY MONEY. IN ANY EVENT, BOTERO HAS INDICATED TO THE AMBASSADOR A WILLINGNESS TO BE PRAGMATIC AND FLEXIBLE, DEPENDING ON THE CIRCUMSTANCES OF THE INDIVIDUAL CASE.

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